

I. Purpose

This summary provides details on the funding included in the interim COVID-19 legislation, the “Paycheck Protection Program and Health Care Enhancement Act,” a \$482 billion relief package that was passed by the Senate today. The bill focuses on increased aid to small businesses, additional funding for hospitals, and expanded testing capacity, and has colloquially been named “Phase 3.5,” as it addresses some of lawmakers’ concerns, but not all. Other priorities, like more funding for states and localities, could be included in the next round of aid.

II. Legislation Background

In the face of the economic and social disruption caused by COVID-19, Congress has passed three significant response packages to address health sector needs, support American families and provide economic stimulus for businesses. The third package, the CARES Act, was signed into law by President Trump on March 27, and included \$350 billion in loans through a new Small Business Administration (SBA) program called the Payroll Protection Program (PPP).

Early last week, however, it became clear that the PPP’s funds would run out due to unprecedented demand. As a result, Senate Republicans quickly pulled together a new package that included an additional \$250 billion for the program, but it was blocked by Democrats last Thursday, who sought to add other provisions to the bill. Senate and House Democrats wanted to include changes to the PPP provisions to ensure that rural and underserved communities have access to the loans, as well as additional funding for states, hospitals, and low-income households. However, Senate Majority Leader Mitch McConnell (R-KY) and House Minority Leader Kevin McCarthy (R-CA) repeatedly said that they would not be willing to add anything else into the package besides increased PPP funding, and argued that Democrats can address their concerns in upcoming emergency COVID packages.

But as talks continued into this past weekend between House and Senate Democratic Leadership, Treasury Secretary Steven Mnuchin and House Minority Leader Kevin McCarthy (R-CA) each announced that they’d be willing to compromise in order to secure the increased SBA funding. After extensive talks, a bipartisan deal was reached on Tuesday afternoon, and the final bill includes some of the Democrats’ asks, though not all. The bill includes \$75 billion for health care providers and \$25 billion for more COVID-19 tests as well as a national testing strategy.

Because neither the House nor Senate are in Washington, any agreement will need unanimous consent to pass. The Senate passed the legislation by unanimous consent in a pro forma session this afternoon. House passage could be as early as Thursday, April 23.

III. Increased Small Business Administration (SBA) Funding

Paycheck Protection Program (PPP)

For the Paycheck Protection Program (PPP), the bill includes another \$310 billion for the loan program bringing the total amount available for lending to \$659 billion. (Division A, Sec.

101) It also includes a separate \$10 billion for administrative costs like fees paid to lenders. The amounts provided for the PPP are designated as emergency spending for budgetary purposes. (Division A, Sec. 102)

The bill carves out \$60 billion in funding for Insured Depository Institutions, Credit Unions, and Community Financial Institutions for the PPP. Community Financial Institutions are defined as minority depository institutions, certified development companies, microloan intermediaries, and State or Federal Credit Unions. This specifically includes:

- \$30 billion set aside for loans made by Insured Depository Institutions and Credit Unions that have assets between \$10 billion and \$50 billion; and
- \$30 billion for loans made by Community Financial Institutions, Small Insured Depository Institutions, and Credit Unions with assets less than \$10 billion.

Disaster Loans

For the Emergency Economic Injury Disaster Loans (EIDL) grants, the bill includes another \$10 billion for the program for a total of \$20 billion since this crisis began. (Sec. 101 and Division B, Title II) The amounts provided for the EIDL are designated as emergency spending for budgetary purposes. (Division A, Sec. 102) The bill also includes \$50 billion for additional SBA guarantees under its broader disaster loan program. (Division B, Title II)

Additionally, it allows agricultural enterprises as defined by section 18(b) of the Small Business Act (15 U.S.C. 647(b)) with not more than 500 employees to receive EIDL grants and loans.

General Support for Small Business Administration (SBA)

Apart from the additional funding for the SBA's PPP and EIDL grants, the Small Business Administration would receive an additional \$2.1 billion for their Salaries and Expenses account to administer these emergency programs. (Division B, Title II)

IV. Supplemental Funding for U.S. Department of Health and Human Services (HHS)

More Relief for Health Care Providers

The bill includes \$75 billion (in addition to the \$100 billion already included in the CARES Act) for hospitals and healthcare providers to support the need for COVID-19 related expenses, as well as lost revenue. The language is the same as the CARES Act, and as such, will reimburse eligible healthcare providers for expenses or lost revenues attributable to COVID-19 and not reimbursable by other sources.¹ The funding may be used for building or construction of temporary

¹ Eligible healthcare providers are public entities, Medicare- or Medicaid-enrolled suppliers and providers, and for profit and not-for-profit entities within the United States that provide diagnosis, treatment and care for possible or expected cases of COVID-19.

structures, leasing of properties, medical supplies and equipment (including personal protective equipment and testing supplies), increased workforce and trainings, emergency operation centers, retrofitting facilities, and surge capacity. The bill stipulates that these payments should be made via the “most efficient payment systems practical” to provide emergency payment. The funding is available until expended, and once HHS releases an application, they will be reviewed on a rolling basis. Recipients must submit reports and maintain documentation to ensure compliance, and can’t use these funds to reimburse other expenses or losses that have been reimbursed from other sources (Division B, Title I, p. 7).

Funding for National Testing Strategy

The bill also includes \$25 billion to begin a national, comprehensive testing strategy, and covers expenses necessary to research, develop, validate, manufacture, purchase, administer, and expand capacity for COVID-19 tests (Division B, Title 1, p. 10).

Testing Funding for States and Localities:

The bill includes not less than \$11 billion for states, localities, territories and tribes to develop, purchase, administer, process, and analyze COVID-19 tests, scale-up laboratory capacity, trace contacts, and support employer testing. Funds are also made available to employers for testing (Division B, Title 1, p. 11). Within this \$11 billion:

- At least \$2 billion provided to States that will be allocated through the Public Health Emergency Preparedness Grant Formula, which will ensure every state receives funding.
- At least \$4.25 billion to States, localities, and territories that will be allocated according to “a formula methodology that is based on relative number of cases of COVID-19.”
- At least \$750 million to tribes, tribal organizations, and urban Indian health organizations in coordination with Indian Health Service (Division B, Title I, p. 11).

30 days after the law is enacted, the Governor or designee of each State or local government receiving funds must submit to the Health Secretary its plan for COVID-19 testing. This plan must include:

- Goals for the remainder of the 2020 calendar year, including:
 1. The number of tests needed, month-by-month, including diagnostic, serological, and other tests, as appropriate;
 2. Month-by-month estimates of laboratory and testing capacity, including related to workforce, equipment and supplies, and available tests;

3. A description of how the State or local government will use its resources for testing, including how to ease any COVID-19 community mitigation policies. (Division B, Title I, p. 12)

The Health Secretary will submit the formula methodology to House and Senate Appropriations committees one day before awarding funds (Division B, Title I, p. 12). Funds must be allocated within 30 days of the law's enactment (Division B, Title I, p. 13).

Federal Research Activities and Grants:

The bill also includes \$1 billion for the **Centers for Disease Control and Prevention (CDC)** for surveillance, epidemiology, laboratory capacity expansion, contact tracing, public health data surveillance and analytics infrastructure modernization (Division B, Title I, p. 13)

The legislation includes \$1.8 billion to the **National Institutes of Health (NIH)** to develop, validate, improve, and implement testing and associated technologies. Of this funding, \$306 million is for the **National Cancer Institute (NCI)** to develop and improve serological testing, and \$500 million is for the **National Institute of Biomedical Imaging and Bioengineering (NIBIB)** to accelerate and implement point of care and other rapid testing. \$1 billion of the funding goes to the **Office of the Director** to accelerate research, development, and implementation of point-of-care and other rapid testing; and for partnerships with governmental and non-governmental entities to research, develop, and implement the activities (Division B, Title I, p. 13-14).

The bill includes \$1 billion for the **Biomedical Advanced Research and Development Authority (BARDA)** for advanced research, development, manufacturing, production, and purchase of diagnostic, serologic, or other COVID-19 tests or related supplies (Division B, Title I, p. 14).

The bill includes \$22 million for the **Food and Drug Administration (FDA)** to support activities associated with diagnostic, serological, antigen, and other tests, and related administrative activities (Division B, Title I, p. 15).

Funding can be used for grants to rent, lease, purchase, acquire, construct or equip non-federally owned buildings to improve State and local-level COVID-19 testing capacity. Funding can also be used to construct or equip of non-federally owned facilities to produce COVID-19 test kits and related supplies. Funds may purchase medical supplies and equipment, including PPE and testing supplies, as well as for increased workforce and trainings, emergency operations centers, and surge capacity for testing (Division B, Title I, p.15).

The bill also includes \$600 million in grants for **federally qualified health centers (FQHCs)** under the Health Resources and Services Administration's (HRSA) Health Centers program, and \$225 million for COVID-19 testing and related expenses, through grants or other mechanisms, to **rural health clinics** (Division B, Title I, p. 16).

Funds will be distributed under the procedures developed for the Provider Relief Fund authorized in the CARES Act, and may be distributed using contracts or agreements established for that program. The Health Secretary can decide a minimum amount for each eligible entity that accepts assistance.

The bill includes \$1 billion to cover the cost of testing for uninsured people (Division B, Title I, p. 17), and \$6 million for HHS Office of Inspector General (OIG) for oversight activities (Division B, General Provisions, p. 21).

Reports:

HHS has 21 days after the law's enactment to issue a report on COVID-19 testing that focuses on the demographics of people who were tested for or were diagnosed with the virus, as well as rates of cases, hospitalizations and deaths due to the virus (Division B, Title 1, p. 17). This report will go to the House and Senate Appropriations Committees, as well as the House Energy & Commerce committee and the Senate Health, Education, Labor and Pensions (HELP) Committee, and will be updated and resubmitted every 30 days until the end of the pandemic (Division B, Title I, p. 17-18).

The bill also gives HHS 30 days to provide a report to the above committees on a COVID-19 strategic testing plan. The plan will assist State and local governments in "understanding COVID-19 testing for both active infection and prior exposure, including hospital based testing, high complexity laboratory testing, point of care testing, mobile testing units, testing for employers and other settings," and other necessary tests. The plan will include estimates of testing production that account for new technologies, as well as guidelines for testing. The plan will explain how the Health Secretary intends to increase domestic testing capacity, including increase supplies and addressing disparities, and will outline available Federal resources for States and localities. The plan will be updated every 90 days until the funds are expended (Division B, Title I, p. 18-19).

V. Moving Forward

While Senate Democrats were unsuccessful in including certain policy priorities in this interim package, including strengthening SNAP benefits and increased support for states and localities, these areas will be a key focus in the next big stimulus package that House Speaker Nancy Pelosi (D-CA) has discussed in recent weeks. That package, commonly called CARES Act 2, would be broader and potentially include additional funding for medical supplies, coronavirus testing and care, unemployment insurance, cash payments to individuals, and assistance for state and local governments. Other policy proposals being discussed include protections for health care workers, frontline responders, and employees at risk due to COVID-19, Federal assistance for additional industries impacted by the pandemic, a reversal of the \$10,000 cap on the SALT deduction, increased SNAP benefits, and expanded family leave for those caring for COVID-19 patients. Though Pelosi walked back from the inclusion of a large infrastructure package in this bill, her Committee leaders are still working on compiling ideas in the event that something could be incorporated in the future.

Senate Minority Leader Chuck Schumer (D-NY) mentioned in a “Dear Colleague” letter on Tuesday that Democrats were able to secure a commitment from Secretary Mnuchin that he will support additional state and local relief in this next legislation (amount was unspecified), as well as a provision that provides flexibility for using relief dollars to offset lost revenues. Governors from across the U.S. are urging Congress to give states \$500 billion in stabilization funding to meet budget shortfalls resulting from efforts to stem the spread of the virus. Sens. Bill Cassidy (R-LA) and Bob Menendez (D-NJ) on Monday proposed that a \$500 billion fund for state governments to use in response to the coronavirus outbreak be part of the next stimulus package passed by, matching the governors requests. The fund would build on \$150 billion already allocated to various states through the CARES Act.

Because Congress is not expected to return until May 4, any new legislation would require unanimous support in both chambers in order to pass by early next month. However, Senate Majority Leader Mitch McConnell (R-KY) stated that he believes that the Senate should be in session before debating a larger package.